

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

MAY 24 2019

Mark C. McCartt, Clerk
U.S. DISTRICT COURT

1) State of Oklahoma, ex rel.
Department of Transportation,

Plaintiff,

vs.

Case No.

1) United States Department of Interior,
Bureau of Indian Affairs, on behalf of the
Heirs of Tract ID 812- 44; 2) Misty R. Belvin;
3) Edward A. Feather; 4) John J. Jake;
5) Shirley C. Logan; 6) Richard E. Roberts;
7) James, C. Roberts, Jr., deceased his
known or unknown heirs, executors,
administrators, legatees, devisees, trustees,
creditors and assigns; 8) Kathryn E. White;
9) Simeah C. White; 10) James W. Zotigh
11) Mark Mitchell

Defendants.

19 CV 284 CVE - JFJ

COMPLAINT

COMES NOW the Plaintiff, State of Oklahoma, ex rel. Department of Transportation (the "Plaintiff"), and for its cause of action against the Defendants alleges and states as follows:

1. This action is instituted in the name of the State of Oklahoma, ex rel. Department of Transportation, as authorized by and in accordance with 25 USC ' 357 and 69 Okla. Stat. 2011 ' 1203.

2. For the purpose of establishing, constructing and maintaining the State Transportation System in Pawnee County, Oklahoma, it is necessary for the Plaintiff to acquire an interest in the tract of land hereinafter described on Exhibit "A", attached hereto and made a part hereof, excluding mineral interests but including airspace and including the right to use and remove any and all roadbuilding materials. The acquisition shall be for a perpetual highway easement, unless

Fees Pd
0-Summons

specified otherwise in the legal description(s) attached hereto in which case the quality of title or interest to be acquired herein shall be as stated in such legal description(s). The property is to be acquired for the construction and maintenance of said State Transportation System or facilities necessary and incidental thereto.

3. Said property is situated in Pawnee County, Oklahoma. The above named Defendants own or claim some interest in said real property.

4. Plaintiff further states and represents that it has made reasonable effort to secure by purchase, from the said Defendants, the land hereinafter described on Exhibit "A". Plaintiff further asserts that said Defendants are unable or have refused to grant same to the Plaintiff.

5. An affidavit of need and necessity to acquire the above described property is hereto attached, marked Exhibit "B", and made a part of this Complaint.

6. Plaintiff further states that it is necessary for the State of Oklahoma to acquire said title or interest and all equivalent rights, title or interest in and to the light, airspace and view above same in order to accomplish the public purpose of constructing and maintaining a public transportation system and related facilities. Acquisition of this property by Plaintiff excludes mineral interests. Said mineral interests may only be explored as provided by law and in a manner not inconsistent with use of said property for public transportation service and other purposes incidental thereto.

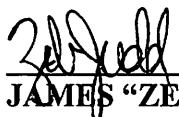
WHEREFORE, premises considered, Plaintiff prays that the Court appoint three disinterested freeholders of said Pawnee County as Commissioners. They should be selected by the Judge of the U.S. District Court, as prescribed by law, and should not be interested in any like question. The Commissioners should be instructed to inspect said real property described on Exhibit "A" and to consider and appraise the just compensation to which the said Defendants as

owners thereof, or who profess an interest therein, are entitled by reason of the taking of a perpetual highway easement across such property. The Report of Commissioners should be filed with the Clerk of this Court. Notice as prescribed by statute should be served by the Court Clerk upon all parties. Upon deposit with the Clerk of this Court of the amount stated in the Report of Commissioners, Plaintiff is authorized to enter upon said land and take said real estate for its use hereinbefore described. The final determination of all rights and issues of the parties should be made in the manner prescribed by law.

Respectfully submitted,

**STATE OF OKLAHOMA, ex rel
DEPARTMENT OF TRANSPORTATION**

**LISA ERICKSON ENDRES, CHIEF
LEGAL & BUSINESS SERVICES DIVISION**

By: 

**JAMES "ZEB" JUDD, OBA #31608
BECKY MCDOWN, OBA #13138
200 Northeast 21st Street
Oklahoma City, OK 73105
Phone: 405.521.2681
Facsimile: 405.522.3720
E-mail: zjudd@odot.org
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*Attorney for the State of Oklahoma,
ex rel. Department of Transportation*

J/P 29691(05)
Parcel 1
October 02, 2018
JE 10-2-18

Parcel 1

A perpetual easement for the sole purpose of enabling the State of Oklahoma, it's officers, agents, employees, contractors, permittees and assigns to go upon, survey, locate, construct, reconstruct, drainage structures and highway facilities and all necessary or convenient appurtenances thereto, and includes the right of ingress and egress by the State of Oklahoma, its officers, agents, employees, contractors, permittees and assigns on the following described tract:

A strip, piece or parcel of land lying in the NE1/4 of Section 30, T23N, R5E in Pawnee County, Oklahoma. Said parcel of land being described by metes and bounds as follows:

Commencing at the Southeast corner of said NE1/4, thence N 00°11'42.55" W along the East line of said NE1/4 a distance of 651.97 feet, thence S 89°47'46.09" W a distance of 55.10 feet to the Point of Beginning, said point being on a jog in the present West right-of-way line of State Highway No. 18, thence S 89°47'46.09" W along said jog in the present West right-of-way line a distance of 20.00 feet, thence N 05°56'12.01" E to a point on said present West right-of-way line a distance of 186.97 feet, thence S 00°12'13.91" E along said present West right-of-way line a distance of 185.90 feet to point of beginning.

Containing 0.04 acres, more or less.

Exhibit A

STATE OF OKLAHOMA)
) ss.: "EXHIBIT B"
 COUNTY OF OKLAHOMA)

Parcel No. 1.0
 Job Piece No. 29691(05)
 County Pawnee

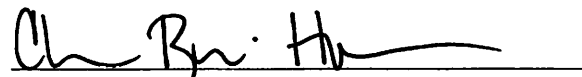
ROBERT D. BLACKWELL, of lawful age, being first duly sworn, deposes and says as follows: That I am employed as Chief of the Right-of-Way and Utilities Division by the Oklahoma Department of Transportation, and as such, am in charge of the securing of all necessary realty required in the construction and maintenance of the State Transportation System designated by the Oklahoma Department of Transportation.

That at this time it is necessary to acquire the aforementioned interest(s) in the tract(s) of land as hereinbefore described, in order to economically construct and maintain a section of the State Transportation System, and facilities incidental thereto.

That the Transportation Commission has determined that a public necessity exists for such acquisition of the property legally described in the sheet attached hereto; that representatives of the Department of Transportation have been unable to effect a reasonable and amicable settlement with the property owner. In instances where there are nonresident owners, unknown heirs, imperfect titles and owners whose whereabouts cannot be ascertained, the Department of Transportation has made a reasonable and diligent effort to locate and secure these owners.


 Robert D. Blackwell

SUBSCRIBED AND SWORN TO before me by the above named on this 23rd day of May, 2019.


 Notary Public

My Commission Expires: 06/22/2022
 My Commission No.: 18006261

